

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MARILYN WARSINSKE,	)	
	)	NO. CV-11-0011-LRS
Plaintiff,	)	
	)	ORDER RE JUNE 6, 2011 MOTIONS
-vs-	)	HEARING
	)	
LIBERTY NORTHWEST INSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

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A telephonic hearing was held in the above-entitled matter on June 6, 2011 pursuant to Plaintiff's Plaintiff's Motion to Enforce Appraisal of Loss to Arbitration Re Statement Demand for Appraisal (ECF No. 10); Plaintiff's Amended Motion to Amend/Correct Motion for Protective Order, Motion for Sanctions (ECF No. 22); and Plaintiff's Motion for Protective Order Re Washington Trust Bank (ECF No. 43). Steven Schneider participated on behalf of Plaintiff; Sarah Eversole participated on behalf of Defendant. The Court, having reviewed the documents in the file and heard oral argument from counsel, now enters the following order to memorialize, supplement, and incorporate herewith the oral rulings of the court.

1 Plaintiff moves for an order enforcing the agreement of the parties  
2 to submit the appraisal of loss to an arbitration panel. Defendant  
3 argues that Plaintiff's Motion to Compel Appraisal should be denied  
4 because: 1) Plaintiff has not established a necessary predicate to  
5 appraisal - the right to coverage under the homeowner policy for her  
6 alleged loss; and 2) she waived any right to appraisal by waiting more  
7 than three years after the loss to make her demand. Defendant concludes  
8 that Plaintiff's actions substantially prejudiced its right to adjust the  
9 loss by removing all evidence of the loss, months before she reported it  
10 to Defendant. The Court finds that coverage must be determined first.  
11 The Court further finds that a waiver has not been shown to exist based  
12 on the current state of the record.

14 Plaintiff moves for a protective order to quash or modify subpoena  
15 duces tecum to Washington Trust Bank (ECF Ct. Rec. 43). Plaintiff argues  
16 Defendant's requests are overbroad and seek private and protected  
17 information not relevant to the issues and not calculated to produce  
18 admissible evidence. Defendant argues the document requests are limited  
19 to specific documents within a relevant period of time between Washington  
20 Trust Bank and Ms. Warsinske, and are related to the property at  
21 issue. Defendant also argues that the documents and photos requested  
22 will provide evidence or lead to the discovery of admissible evidence  
23 showing that Ms. Warsinske was aware that an appraisal was performed on  
24 the property on or about August 25, 2008 and provided a complete copy of  
25 the appraisal report, including the photograph of the awning which is the  
26 subject of her insurance claim in this lawsuit. The Court finds that

1 Plaintiff's motion should be denied as the requested documents may lead  
2 to discoverable evidence. Accordingly, the Court finds no basis to  
3 preclude the materials sought in the subpoena from being provided to the  
4 defendant.

5 Plaintiff indicates that following a recent deposition, its Amended  
6 Motion to Amend/Correct Motion for Protective Order, Motion for Sanctions  
7 (ECF. No. 22) is deemed moot.

8 **IT IS ORDERED:**

9  
10 1. Plaintiff's Motion to Enforce Appraisal of Loss to Arbitration  
11 Re Statement Demand for Appraisal, **ECF No. 10**, is **DENIED**, without  
12 prejudice.

13 2. Plaintiff's Amended Motion to Amend/Correct Motion for Protective  
14 Order, Motion for Sanctions, **ECF No. 22**, is **DENIED as MOOT**.

15 3. Plaintiff's Motion for Protective Order Re Washington Trust  
16 Bank, **ECF No. 43**, is **DENIED**.

17 The District Court Executive is directed to file this Order and  
18 provide copies to counsel.

19 **DATED** this 9th day of June, 2011.

20  
21 ***s/Lonny R. Suko***

22 \_\_\_\_\_  
23 LONNY R. SUKO  
24 UNITED STATES DISTRICT JUDGE  
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